

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3341 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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KASHI WD/O.SOMABHAI KALIDAS

Versus

BAI JADAV WD/O.SANABHAI NATHABHAI PATEL

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Appearance:

MR SR PATEL WITH MR AJ PATEL for Petitioner

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/09/1999

ORAL JUDGEMENT

#. Having heard the learned counsel for the petitioner and perusing the judgment of the Gujarat Revenue Tribunal dated 27th December 1991 in Revision Application No.TEN.B.A.296/87, I am satisfied that this judgment cannot be allowed to stand in so far as it relates to Survey No.54.

#. It is not in dispute and it has also been found as a fact by the Tribunal that the tenant Shanabhai Nathabhai Patel has voluntarily surrendered the possession of the disputed land to the landlord. This finding of fact recorded by the Tribunal has to be accepted and in view of the decision of the Apex Court in the case of Dhondiram Tatoba Kadam v. Ramchandra Balwantrao Dubal Since decd. by His Legal Heirs & Anr., reported in 1995(1) GLR 344 and of this Court in the case of Jashbhai M. Patel v. Dhulabhai Lakhabhai, reported in 1997(2) GLR 1196, the reasons given by the Tribunal to allow this revision application in so far as it relate to Survey No.542 do not stand to any merits. In this case, where voluntarily possession is delivered by the tenant, I fail to see what for the provisions of Section 15(2) of the Bombay Tenancy & Agricultural Lands Act are to be followed by the Mamlatdar as what it is held by the Hon'ble Supreme Court that in such matters merely because those provisions were not followed it cannot be taken to be a case where the tenant should be given benefits.

#. In the result, this special civil application succeeds and the same is allowed. The order of the Gujarat Revenue Tribunal dated 27th December 1991 in Revision Application No.TEN.B.A.296/87 to the extent it relates to Survey No.542, is set aside. Rule is made absolute in aforesaid terms with no order as to costs.

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[sunil]